

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII

901 N. 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF:

Analytical Bio-Chemistry Laboratories, Inc.
7200 East ABC Lane
Columbia, Missouri 65202

EPA ID NO. MOD 046367033

Respondent.

Proceeding under Section
3008(a) and (g) of the Resource
Conservation and Recovery Act,
as amended, 42 U.S.C. § 6928(a) and (g).

COMPLAINT, COMPLIANCE
ORDER AND NOTICE OF
OPPORTUNITY FOR HEARING

Docket No. RCRA-07-2003-0046

I. PRELIMINARY STATEMENT

This Complaint, Compliance Order, and Notice of Opportunity for Hearing ("Complaint") is issued pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act ("SWDA"), as amended by the Resource Conservation and Recovery Act of 1976 ("RCRA") and the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), 42 U.S.C. § 6928(a) and (g), and in accordance with the United States Environmental Protection Agency's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), Title 40 Code of Federal Regulations ("C.F.R.") Part 22.

The Complainant is the Director of the Air, RCRA, and Toxics Division of the United States Environmental Protection Agency ("EPA"), Region VII, who has been duly delegated the authority to bring this action. The Respondent is Analytical Bio-Chemistry Laboratories, Inc., a company incorporated under the laws of and authorized to conduct business in the State of Missouri.

The authority to execute this Complaint is provided to the Regional Administrators by EPA Delegation No. 8-9-A, dated March 20, 1985. The Regional Administrator has delegated this authority to the Director of the Air, RCRA and Toxics Division of EPA, Region VII, by EPA Delegation No. R7-8-9-A, dated January 1, 1995.

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The State of Missouri has been granted authorization to administer and enforce a hazardous waste program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and the State of Missouri has adopted by reference the federal regulations cited herein at Title 10, Code of State Regulations (C.S.R.), Chapter 25 (10 C.S.R. 25). Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA to enforce the provisions of the authorized State program and the regulations promulgated thereunder. When the EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928. In the case of a violation of any RCRA requirement, where such violation occurs in a state which is authorized to implement a hazardous waste program pursuant to Section 3006 of RCRA, EPA shall give notice to the state in which such violation has occurred or is occurring prior to issuing an order. The State of Missouri has been notified of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than \$25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). This figure has been adjusted upward for inflation pursuant to the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19, so that penalties of up to \$27,500 per day are now authorized for violations of Subchapter III of RCRA that occur after January 30, 1997. Based upon the facts alleged in this Complaint and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), as discussed in the RCRA Civil Penalty Policy issued by EPA on October 26, 1990, and attached hereto, including the seriousness of the violations, the threat of harm to public health or the environment, any good faith efforts of Respondent to comply with applicable requirements, as well as other matters as justice may require, the Complainant proposes that Respondent be assessed a civil penalty pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for the violations of RCRA alleged in the Complaint. The proposed penalty may be adjusted if Respondent establishes bona fide issues relevant to the statutory factors for the assessment of the proposed penalty.

II. COMPLAINT

ALLEGATIONS COMMON TO ALL COUNTS

1. Respondent is a Missouri corporation authorized to conduct business in the State of Missouri and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

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2. Respondent, which operates a facility located at 7200 East ABC Lane in Columbia, Missouri (hereinafter referred to as the "facility"), is a private contract research, development and manufacturing company.
3. The facility has been in operation since approximately 1968, and currently employs approximately 230 employees.
4. On or about March 12, 1998, Respondent submitted a 1997 Hazardous Waste Report to EPA, in which it identified itself as a large quantity generator (LQG) of D001, F002, F003, and F005 hazardous wastes.
5. On or about March 14, 2002, Respondent submitted a RCRA Subtitle C Site Identification Form to EPA, in which it identified itself as a large quantity generator of D001, F002, F003, and other listed and characteristic hazardous wastes.
6. On April 23-25, 2002, EPA conducted a RCRA compliance evaluation inspection at Respondent's facility. Based on a review of Respondent's hazardous waste manifests and from the amount of hazardous waste stored on-site during the inspection, Respondent was operating at that time as a large quantity generator of hazardous waste.
7. Based on information obtained during the inspection, Respondent was issued a Notice of Violation.

COUNT I

FAILURE TO CONDUCT A HAZARDOUS WASTE DETERMINATION

8. Complainant hereby incorporates the allegations contained in paragraphs 1 through 7 above, as if fully set forth herein.
9. Pursuant to 40 C.F.R. § 262.11, as incorporated by reference at 10 C.S.R. 25-5.262(1), a generator of solid waste, as defined in 40 C.F.R. § 261.2, is required to determine if the solid waste is a hazardous waste.
10. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing approximately 30 containers of solid waste, ranging in size of up to 7 gallons each, on a pallet in the northwest corner of the Waste Shed. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.

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11. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing approximately 40 containers of solid waste, ranging in size of up to 4 liters each, in an open cabinet on the south side of the Waste Shed. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.
12. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing a large yellow plastic bag containing solid waste on the south side of the Waste Shed. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.
13. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing a 55-gallon drum of solid waste on the south side of the Waste Shed. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.
14. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing two boxes of solid waste on the south side of the Waste Shed. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.
15. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing a clear plastic bag of solid waste on the south end of the Waste Shed. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.
16. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing 22 drums, of approximately 30 gallons each, of solid waste along the north and west side of the fenced storage area inside of Building M. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.
17. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing approximately 30 small containers of solid waste in a box on a pallet located near the cabinets in the fenced storage area inside of Building M. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.
18. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing at least two 4-liter containers of solid waste on a pallet located near the cabinets in the fenced storage area inside of Building M. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.
19. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing approximately 30 small containers of solid waste on a pallet located near the cabinets in the

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fenced storage area inside of Building M. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.

20. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing approximately 100 small containers of solid waste in the North cabinet in the fenced storage area inside of Building M. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.

21. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing approximately 50 small containers and one 5-gallon jug of solid waste in the South cabinet in the fenced storage area inside of Building M. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.

22. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing spent fluorescent bulbs inside of Building M. Respondent had not conducted a hazardous waste determination on this waste at the time this waste was generated.

23. Respondent's failure to make hazardous waste determinations on the waste streams noted in paragraphs 10 through 22 is a violation of 40 C.F.R. § 262.11, as incorporated in 10 C.S.R. 25-5.262(1).

24. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), and based upon the allegations above, it is proposed that a civil penalty of \$71,927 (which comprises a gravity-based amount of \$5,500, a multiple occurrence amount of \$66,000, and an economic benefit amount of \$427) be assessed against Respondent for its failure to comply with 40 C.F.R. § 262.11, as incorporated in 10 C.S.R. 25-5.262(1).

COUNT II

OPERATING AS A TREATMENT, STORAGE, OR DISPOSAL FACILITY WITHOUT A RCRA PERMIT OR RCRA INTERIM STATUS

25. Complainant hereby incorporates the allegations contained in paragraphs 1 through 24 above, as if fully set forth herein.

II.a. Failure to meet generator requirements

26. The regulations at 40 C.F.R. § 262.34(a), as incorporated by reference at 10 C.S.R. 25-5.262(1), state that a hazardous waste generator may accumulate hazardous waste on-site for

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ninety (90) days or less without a RCRA permit or without having RCRA interim status, provided that the conditions listed in 40 C.F.R. § 262.34(a) are met.

Open Containers

27. The regulations at 40 C.F.R. § 262.34(a)(1)(i), as incorporated by reference at 10 C.S.R. 25-5.262, require that while being accumulated on-site, the hazardous waste is placed in containers and the generator complies with the applicable requirements of Subparts I, AA, BB, and CC of 40 C.F.R. Part 265.

28. The regulations at 40 C.F.R. § 265.173, as found in 40 C.F.R. Part 265 Subpart I, require that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

29. At the time of the April 23-25, 2002 EPA inspection, at a time when a waste was not being added or removed, Respondent was accumulating approximately four open drums of hazardous waste in the Waste Shed. These drums contained F002, F003, F005, and D001 hazardous waste.

Secondary Containment of Container Storage Areas

30. The regulations at 40 C.F.R. § 262.34(a)(1)(i), as incorporated by reference at 10 C.S.R. 25-5.262, require that while being accumulated on-site, the hazardous waste is placed in containers and the generator complies with the applicable requirements of Subparts I, AA, BB, and CC of 40 C.F.R. Part 265.

31. In addition, the regulation at 10 C.S.R. 25-5.262(2)(C)2.D. sets forth additional requirements for storage of hazardous waste in containers.

32. The regulations at 10 C.S.R. 25-5.262(2)(C)2.D require that any storage areas for hazardous waste containers have a containment system. Such containment system must include a base which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills and accumulated precipitation until the collected material is detected and removed.

33. At the time of the April 23-25, 2002 EPA inspection, the area of the floor near the cabinet in the Waste Shed appeared to be worn away and was not properly sealed. Also, the cabinet in the waste shed, where hazardous waste is also stored, had a corroded floor.

Storage of Incompatible Wastes

34. The regulations at 40 C.F.R. § 262.34(a)(1)(i), as incorporated by reference at 10 C.S.R. 25-5.262, require that while being accumulated on-site, the hazardous waste is placed in containers and the generator complies with the applicable requirements of Subparts I, AA, BB, and CC of 40 C.F.R. Part 265.

35. The regulations at 40 C.F.R. § 265.177(c), as found in Part 265 Subpart I, require that a storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

36. At the time of the April 23-25, 2002 EPA inspection, Respondent was storing peroxide, nitric acid, organic acid, sodium hydroxide, chlorinated and non-chlorinated solvents, and other potentially incompatible wastes or materials near each other in the Waste Shed without providing proper separation or protection, as required by 40 C.F.R. § 265.177(c).

Labeling and Dating

37. The regulations at 40 C.F.R. § 262.34(a)(3), as incorporated by reference at 10 C.S.R. 25-5.262, require that while being accumulated on-site, each container and tank accumulating hazardous waste is labeled or marked clearly with the words "Hazardous Waste."

38. At the time of the April 23-25, 2002 EPA inspection, Respondent had accumulated approximately 11 containers of spent solvent hazardous waste in the Waste Shed which were not labeled with the words "Hazardous Waste."

39. At the time of the April 23-25, 2002 EPA inspection, Respondent had accumulated approximately 13 containers of spent solvent hazardous waste in Building J which were not labeled with the words "Hazardous Waste."

40. The regulations at 40 C.F.R. § 262.34(a)(2), as incorporated by reference at 10 C.S.R. 25-5.262, require that while being accumulated on-site, each hazardous waste container has the date upon which each period of accumulation begins clearly marked and visible for inspection on each container.

41. At the time of the April 23-25, 2002 EPA inspection, Respondent had accumulated approximately two containers of spent solvent hazardous waste in the Waste Shed which were not dated with the accumulation start date.

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42. At the time of the April 23-25, 2002 EPA inspection, Respondent had accumulated approximately 13 containers of spent solvent hazardous waste in Building J which were not dated with the accumulation start date.

Inadequate Aisle Space

43. The regulations at 40 C.F.R. § 262.34(a)(4), as incorporated by reference at 10 C.S.R. 25-5.262, require that a generator of hazardous waste complies with the requirements for owners or operators in Subparts C and D in 40 C.F.R. Part 265, with § 265.16, and with 40 C.F.R. § 268.7(a)(5).

44. The regulations at 40 C.F.R. § 265.35, as found in Part 265 Subpart C, require that the owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

45. At the time of the April 23-25, 2002 EPA inspection, Respondent was not maintaining adequate aisle space in the Waste Shed.

Emergency Communication Device

46. The regulations at 40 C.F.R. § 262.34(a)(4), as incorporated by reference at 10 C.S.R. 25-5.262, require that a generator of hazardous waste comply with the requirements of Subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with 40 C.F.R. § 268.7(a)(4).

47. The regulations at 40 C.F.R. § 265.34(a), as found in Part 265 Subpart C, require that whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee.

48. At the time of the April 23-25, 2002 EPA inspection, many of Respondent's employees had access to the Waste Shed in order to empty any satellite accumulation containers of hazardous waste into the waste storage drums.

49. At the time of the April 23-25, 2002 EPA inspection, Respondent did not have any device in the Waste Shed that could be used to summon emergency assistance.

Personnel Training

50. The regulations at 40 C.F.R. § 262.34(a)(4), as incorporated by reference at 10 C.S.R. 25-5.262, require that a generator of hazardous waste complies with the requirements for owners or operators in Subparts C and D in 40 C.F.R. Part 265, with § 265.16, and with 40 C.F.R. § 268.7(a)(5).

51. The regulations at 40 C.F.R. § 265.16(c) require that facility personnel must take part in an annual review of the initial training required in 40 C.F.R. § 265.16(a). Such initial training must teach facility personnel hazardous waste management procedures relevant to the positions in which they are employed. At a minimum, it must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems.

52. At the time of the April 23-25, 2002 EPA inspection, three of Respondent's employees had not received annual hazardous waste management training for 2001.

53. The regulations at 40 C.F.R. § 265.16(d)(2) require that a facility owner or operator maintain documents and records at the facility that provide the job description of each employee engaged in hazardous waste management. Such job description must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position.

54. At the time of the April 23-25, 2002 EPA inspection, Respondent did not have documentation that adequately described three of its employees' hazardous waste management duties.

Contingency Plan

55. The regulations at 40 C.F.R. § 262.34(a)(4), as incorporated by reference at 10 C.S.R. 25-5.262, require that a generator of hazardous waste complies with the requirements for owners or operators in Subparts C and D in 40 C.F.R. Part 265, with § 265.16, and with 40 C.F.R. § 268.7(a)(5).

56. The regulations at 40 C.F.R. § 265.51, as found in Part 265 Subpart D, require that each owner or operator have a contingency plan for his or her facility. The contingency plan must contain the elements described in 40 C.F.R. § 265.52.

57. At the time of the April 23-25, 2002 EPA inspection, Respondent did not have a contingency plan containing all of the elements required by 40 C.F.R. § 265.52.

Labeling of Satellite Accumulation Containers

58. The regulations at 40 C.F.R. § 262.34(c) and 10 C.S.R. 25-5.262(2)(C)3 state that a generator of hazardous waste may accumulate as much as 55 gallons of hazardous waste in satellite containers that are at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status. However, the generator must mark the satellite storage container either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
59. Furthermore, the regulations at 10 C.S.R. 25-5.262(2)(C)3 also require that a generator mark any such satellite storage containers with the beginning date of satellite storage.
60. At the time of the April 23-25, 2002 EPA inspection, Respondent was accumulating the following containers at its facility without marking the beginning date of satellite storage: four containers of spent solvent hazardous waste in Building J, three containers of spent solvent hazardous waste in the Greenhouse, and one container of spent solvent hazardous waste in Building C.
61. Respondent's failure to comply with the conditions set forth in 40 C.F.R. §§ 262.34(a) and (c), which are alleged in paragraphs 26 through 60, subjects Respondent to the requirements of having a permit or interim status, pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, for its on-site storage of hazardous waste.
62. Respondent does not have a RCRA Permit or RCRA Interim Status to operate as a treatment, storage or disposal facility, in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

II.b. Illegal storage of hazardous waste

63. The regulation at 40 C.F.R. § 262.34(b), as incorporated by reference at 10 C.S.R. 25-5.262, states that a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 C.F.R. Parts 264 and 265 and the permit requirements of 40 C.F.R. Part 270 unless he has been granted an extension to the 90 days.
64. At the time of the April 23-25, 2002 EPA inspection, Respondent had stored approximately five (5) 55-gallon drums, twenty-two (22) 30-gallon drums, and seven (7) 55-gallon drums of hazardous waste in the Waste Shed and in Building M for more than 90 days without a permit.
65. No extension to the 90-day storage period had been granted by EPA.

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66. By storing hazardous waste on-site for greater than 90 days, Respondent subjected itself to the requirements of 40 C.F.R. Parts 264, 265 and 270 and was operating as a hazardous waste storage facility without a permit.

67. Pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, it is a violation of RCRA to operate a hazardous waste treatment, storage or disposal facility without a permit.

68. Pursuant to Section 3008(g) of RCRA, U.S.C. §6928(g) and based upon the allegations stated above, Complainant proposes that Respondent be assessed a civil penalty of \$58,066 (which comprises a gravity-based amount of \$5,500, a multi-day amount of \$49,225, and an economic benefit amount of \$3,341) for operation of a RCRA storage facility without a RCRA permit or interim status.

COUNT III

FAILURE TO COMPLY WITH MANIFEST REQUIREMENTS

69. Complainant hereby incorporates the allegations contained in paragraphs 1 through 68 above, as if fully set forth herein.

70. The regulation at 10 C.S.R. 25-5.262(2)(B)2.A. requires that each Missouri hazardous waste manifest include the Missouri hazardous waste manifest document number, which is the six-digit Missouri generator identification number and the consecutive shipment number.

71. Respondent failed to include the Missouri generator identification number on at least one hazardous waste manifest that was reviewed during the April 23-25, 2002 EPA inspection.

72. Respondent failed to use consecutive shipment numbers on several hazardous waste manifests that were reviewed during the April 23-25, 2002 EPA inspection.

73. The regulation at 10 C.S.R. 25-5.262(2)(B)2.C. requires that each Missouri hazardous waste manifest include the license plate number for the waste-carrying portion of the vehicle used to transport waste, including the state of registration.

74. Respondent failed to include the transporter's license plate number on several hazardous waste manifests that were reviewed during the April 23-25, 2002 EPA inspection.

75. The regulation at 10 C.S.R. 25-5.262(2)(B)2.I. requires that each Missouri hazardous waste manifest include either the total weight of the hazardous waste in kilograms or pounds, or the specific gravity for wastes listed or measured in gallons, liters or cubic yards.

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76. Respondent failed to list the specific gravity for wastes that were listed or measured in gallons on several hazardous waste manifests that were reviewed during the April 23-25, 2002 EPA inspection.
77. The regulation at 40 C.F.R. § 262.20(a), as incorporated by reference at 10 C.S.R. 25-5.262(2)(B)2, requires that a generator of hazardous waste complete the hazardous waste manifest form in accordance with the instructions to the form. These instructions require the generator of hazardous waste to sign and date a certification statement on the hazardous waste manifest form.
78. Respondent failed to sign at least one hazardous waste manifest that was reviewed during the April 23-25, 2002 EPA inspection.
79. The regulation at 10 C.S.R. 25-5.262(2)(D)2.C requires that a generator of hazardous waste who has not received the completed manifest with the handwritten signature of the designated hazardous waste facility operator within thirty-five (35) days from the date the waste was accepted by the initial hazardous waste transporter to submit a completed exception report to the Missouri Department of Natural Resources within forty-five (45) days from the date the waste was accepted by the initial transporter.
80. A review of Respondent's manifests during the April 23-25, 2002 EPA inspection showed that Respondent failed to file an exception report with the Missouri Department of Natural Resources for two hazardous waste manifests that had not been signed and returned by the designated facility operator within 35 days after the waste was accepted by the initial transporter.
81. Respondent's failure to properly prepare manifests for the transportation of hazardous waste offsite for disposal is a violation 10 C.S.R. 25-5.262(2)(B). Pursuant to Sections 3008(a)(2) and 3008(g) of RCRA, 42 U.S.C. §§ 6928(a)(2) and (g), and based upon the allegations stated above, Complainant proposes that Respondent be assessed a civil penalty for failing to comply with the manifest requirements. Complainant also proposes that the penalty amount for Count III be included in the penalty for Count II.

III. COMPLIANCE ORDER

IT IS HEREBY ORDERED that within thirty (30) days of receipt of this Order, Respondent shall pay a penalty of \$129,993. Payment shall be made by certified or cashier's check payable to "Treasurer of the United States" and remitted to the Regional Hearing Clerk, United States Environmental Protection Agency, Region VII, P.O. Box 360748M, Pittsburgh,

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Pennsylvania 15251. A copy of said check shall be sent simultaneously by certified mail, return receipt requested, to:

Mr. Brian Mitchell
Environmental Engineer
ARTD/RESP
U.S. EPA Region VII
901 N. 5th St.
Kansas City, KS 66101

The check must reference the EPA Docket Number of this Complaint and Respondent by name.

IT IS FURTHER ORDERED that Respondent take the following actions within thirty (30) days of receipt of this Order:

- (A) Submit documentation demonstrating that the floor in the Waste Shed has been sealed so that it is impervious to leaks, spills or accumulated precipitation as required by 10 C.S.R. 25-5.262(2)(C)2.D.(III)(a), and that a new waste storage cabinet has been placed into service.
- (B) Submit photographic documentation demonstrating that the Waste Shed has adequate aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment in an emergency, as required by 40 C.F.R. § 262.34(a)(4) and 10 C.S.R. 25-5.262.
- (C) Submit documentation demonstrating that Mark Tenink (the alternate Emergency Coordinator), Martha Pezold (who conducts weekly inspections of the hazardous waste in the Waste Shed), and Susan Powell (who conducts weekly inspections of the hazardous waste in the Waste Shed) have received their annual training for the year 2002, as required by 40 C.F.R. § 262.34(a)(4) and 10 C.S.R. 25-5.262.
- (D) Submit documentation demonstrating that the job descriptions for Mark Tenink, Martha Pezold, and Susan Powell include their hazardous waste management duties, as required by 40 C.F.R. § 262.34(a)(4) and 10 C.S.R. 25-5.262.
- (E) Submit a copy of the facility Contingency Plan, demonstrating that it has been updated to include a description of the arrangements agreed to by Respondent and the local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, as required by 40 C.F.R. § 262.34(a)(4) and 10 C.S.R. 25-5.262.

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- (F) Submit copies of letters demonstrating that copies of the most recent facility Contingency Plan have been submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services, as required by 40 C.F.R. § 262.34(a)(4) and 10 C.S.R. 25-5.262.
- (G) Submit a copy of manifest numbers 0153 and 0154 which shows that the waste listed on the manifest was received at the designated hazardous waste facility, as required by 10 C.S.R. 25-5.262(2)(D)2.C.
- (H) Submit a list of all solid wastes currently on-site at the facility. For each solid waste, state the process which generated the waste, the amount of waste in storage, and whether the waste is a hazardous waste. If the waste is a hazardous waste, please list the applicable hazardous waste codes. Provide copies of the analytical results used to make the hazardous waste determination for each solid waste. If process knowledge was used to make the hazardous waste determination for the solid waste then provide a detailed description of such process knowledge.

IT IS FURTHER ORDERED that Respondent take the following actions:

- (A) Within forty-five (45) calendar days of the effective date of this Order, submit to EPA a closure plan for the hazardous waste storage areas in accordance with 40 C.F.R. Part 265 Subpart G and 10 C.S.R. 25-7.265(G). The closure plan shall be designed to determine the extent, if any, of hazardous waste releases from the illegal hazard waste storage areas [Hazardous Waste Storage Shed (or Waste Shed) and the Hazardous Waste Storage Area in Building M]. The closure plan shall be fully incorporated herein as an enforceable part of this Compliance Order. Upon EPA approval, Respondent shall fully implement the closure plan in accordance with the schedule contained therein.
- (B) Within fifty (50) calendar days of the effective date of this Order, submit evidence to EPA that Respondent has established and shall maintain financial assurance for closure, as required by 40 C.F.R. Part 265 Subpart H and 10 C.S.R. 25-7.265(H).

All documents required to be submitted by this Complaint and Compliance Order shall be sent to the attention of:

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Brian Mitchell
Environmental Engineer
ARTD/RESP
U.S. EPA Region VII
901 North 5th Street
Kansas City, Kansas 66101

IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

In accordance with Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), this Complaint shall become final unless Respondent files a written answer and requests a public hearing in writing no later than thirty (30) days after service of this Complaint.

A written answer to this Complaint must satisfy the requirements of 40 C.F.R. § 22.15 of the Consolidated Rules of Practice, a copy of which is enclosed hereto. The answer and request for hearing must be filed with the Regional Hearing Clerk, U.S. EPA Region VII, 901 N. 5th Street, Kansas City, Kansas 66101. A copy of the answer and request for hearing and copies of any subsequent documents should also be sent to Mr. Alex Chen, Office of Regional Counsel, at the same address.

Respondent's failure to file a written answer and request a hearing within thirty (30) days of service of this Complaint will constitute a binding admission of all allegations contained in the Complaint and a waiver of Respondent's right to a hearing. A Default Order may thereafter be issued by the Regional Judicial Officer, and the civil penalty proposed herein shall become due and payable without further proceedings.

V. SETTLEMENT CONFERENCE

Whether or not Respondent requests a hearing, an informal conference may be requested in order to discuss the facts of this case in an attempt to arrive at settlement. To request a settlement conference, please contact Mr. Alex Chen, Office of Regional Counsel, U.S. EPA Region VII, 901 N. 5th Street, Kansas City, Kansas 66101, (913) 551-7962.

Please note that a request for an informal settlement conference does not extend the thirty (30) day period during which a written answer and request for a hearing must be submitted. The informal conference procedure may be pursued simultaneously with the adjudicatory hearing procedure.

EPA encourages all parties against whom a civil penalty is proposed to pursue the possibility of settlement as a result of an informal conference. However, no penalty reduction will

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be made simply because such a conference is held. Any settlement which may be reached as a result of such a conference shall be embodied in a written Consent Agreement and Final Order issued by the Regional Judicial Officer, U.S. EPA Region VII.

If Respondent has neither filed an answer nor requested a hearing within thirty (30) days of service of this Complaint, Respondent may be found in default. Default by the Respondent constitutes, for the purposes of this proceeding, admission of all allegations made in the Complaint and a waiver of Respondent's right to contest such factual allegations. A Default Order may thereafter be issued by the Presiding Officer and the civil penalties proposed shall be ordered without further proceedings and Respondent will be notified that the penalties have become due and payable.

VI. EFFECTIVE DATE

This Complaint, Compliance Order, and Notice of Opportunity for Hearing shall become effective on the date signed by the Director, Air, RCRA and Toxics Division, EPA Region VII.

This Order shall only be terminated upon receipt of written notice from EPA that all requirements herein have been satisfied.

IT IS SO ISSUED AND ORDERED:

12/30/02
Date

Alex Chen
Alex Chen
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII

12/30/02
Date

for William A. Spratlin
William A. Spratlin
Director
Air, RCRA and Toxics Division
U.S. Environmental Protection Agency
Region VII

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Attachments: Penalty Calculation Summary
Consolidated Rules of Practice Governing the Administrative Assessment of Civil
Penalties, Issuance of Compliance or Corrective Action Orders, and the
Revocation, Termination or Suspension of Permits
RCRA Civil Penalty Policy (October 26, 1990)
Small Business Regulatory Enforcement Fairness Act (SBREFA) Fact Sheet
Notice of Securities and Exchange Commission Registrants' Duty to Disclose
Environmental Legal Proceedings

CERTIFICATE OF SERVICE

I certify that on the date noted below I hand-delivered the original and one true copy of this Complaint, Compliance Order and Notice of Opportunity for Hearing to the Regional Hearing Clerk, Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, Kansas 66101.

I further certify that on the date below I sent by certified mail, return receipt requested, a true and correct copy of the original Complaint, Compliance Order and Notice of Opportunity for Hearing; a copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits (40 C.F.R. Part 22); a copy of the RCRA Civil Penalty Policy (October 26, 1990); and a copy of the Civil Penalty Calculation Summary to the registered agent of Analytical Bio-Chemistry Laboratories, Inc.:

Jake Halliday
Registered Agent
Analytical Bio-Chemistry Laboratories, Inc.
7200 East ABC Lane, Box 1097
Columbia, Missouri 65202

Dated this 30th day of December 2002.

Debby Buffington White